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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,609	11/20/2001	Colin John Taylor	MAR-0010	3445

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,609

Applicant(s)

TAYLOR, COLIN JOHN

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

The indicated allowability of claims 8 and 10-21 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 4,371,995. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 14-17, 20, 21, 23, and 24 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,371,995 to Donhauser.

Regarding Claims 1 and 24, Donhauser teaches an assembly for a water feature with a water reservoir (#12); a pump (#74) disposed in the water reservoir for recycling water therein, in use, around at least part of the assembly; and at least one planter (#54) having a drainage passage (#72, 70, 68), wherein the drainage passage extends through the water reservoir and isolates therefrom liquid drainage from the planter, in use.

Regarding Claim 2, Donhauser teaches the base of the planter is defined by an upper wall of the reservoir (#58 and 28).

Regarding Claim 3, Donhauser teaches in the form of a trough, wherein the base (#54) is recessed relative to an outer periphery of the trough.

Regarding Claim 4, Donhauser teaches the drainage passage extends (#60 and 68) from an opening in the base, through the reservoir, to drain exteriorly, in use (#50).

Regarding Claim 5, Donhauser teaches the drainage passage is formed integrally with the planter base (Fig. 2 #60 and 68).

Regarding Claim 6, Donhauser teaches the drainage passage is formed integrally with a base of the reservoir (#50).

Regarding Claim 7, Donhauser teaches the drainage passage is made up of a first part (#68 and 60) integral with the planter base and a second part (#50) integral with a base of the reservoir.

Regarding Claim 8, Donhauser teaches the first and second parts of the drainage passage are tapered (Fig. 2 #50 and the joint where the pipe associated with #60 meets #68).

Regarding Claim 9, Donhauser inherently teaches that the drainage passage of the first and second drainage passage parts is or are produced by moulding (Col. 2 line 41).

Regarding Claim 10, Donhausert teaches the drainage passage is formed by short passage part extending from the planter base (#68) and defining a socket or spigot in or at which a pipe (Fig. 2 #60 portion of pipe) is engaged to complete the drainage passage.

Regarding Claim 11, Donhauser teaches the broadly presented limitation that the pipe (section associated with #60) extends to and drains from an outlet (#68) provided by an upstanding projection.

Regarding Claim 12, Donhauser teaches the electrical flex of a pump in the reservoir passes out of the assembly through the outlet (#92).

Regarding Claim 14, Donhauser teaches the water pumped by the pump, in use is supplied by means of a pipe connected to the pump to an ornamental member (#82).

Regarding Claim 15, Donhauser teaches the ornamental member has an outlet (#84) through which water is discharged, in use, into the water reservoir.

Regarding Claim 16, Donhauser teaches the broadly presented limitation that the outlet (#84) is positioned to discharge water, in use, into an upstanding hollow part (#52), which forms an inlet to the water reservoir (#70).

Regarding Claim 17, Donhauser teaches the electrical flex of the pump extends out of the assembly through an opening defined by an upstanding projection extending above the level of water in the water reservoir (#92).

Regarding Claim 20, Donhauser inherently teaches it is formed by moulding (Col. 2 line 41).

Regarding Claim 21, Donhauser teaches it in the form of a rectangular trough (Fig. 1).

Regarding Claim 23, Donhauser teaches including legs to space a lower surface of the remainder of the assembly from a supporting surface, in use (#16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,371,995 to Donhauser.

Regarding Claim 18, Donhauser teaches liquid is arranged to drain out, but is silent on having it drain out of the opening shared by the pump flex. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching since the modification is merely the shifting location of parts to provide and alternate equivalent outlet for ease of routine maintenance.

Regarding Claim 19, Donhauser is silent on forming it in one-piece. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Donhauser since the modification is merely an engineering design choice for ease of manufacturing and does not present a patentably distinct limitation.

Regarding Claim 22, Donhauser teaches one passage in the planter, but is silent on a multiplicity of drainage passages are provided in a surface of the planter intended to receive, in use, growing medium. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings since the modification is merely the duplication of a part that performs the same intended function to house several varieties of plants and does not present a patentably distinct limitation.

Response to Arguments

Applicant's arguments with respect to claims 1-12 and 14-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 3,841,023; Japanese Patent JP406054629; U.S. Patent No. 6,279,835; U.S. Patent No. 4,937,972; U.S. Patent No. 4,986,027; U.S. Patent No. 5,440,836; U.S. Patent Pub US 2002/0084346; U.S. Patent No. 6,067,750; U.S. Patent No. 5,598,662; U.S. Patent No. 5,502,922; and U.S. Patent No. 4,056,899.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-0285 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

AMV
March 13, 2003


PETER M POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600